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SUBJECT: FIRST CONFERENCE OF THE STATES PARTIES TO THE UN
CONVENTION AGAINST CORRUPTION: DECEMBER 10-14

Summary

¶1. (SBU) SUMMARY: USDEL to the 1st Conference of the States Parties (COSP) to the UN Convention against Corruption (UNCAC)) held December 10-14 at the Dead Sea in Jordan) garnered support for several decisions that will serve as a strong foundation for effective implementation of UNCAC. Despite opposition from a number of countries, including many European Union members, USDEL persuaded delegates to approve immediate action to begin gathering information on how countries are implementing UNCAC. The parties also agreed on the necessity of creating a mechanism for reviewing implementation of UNCAC, and will use a USG-developed self-assessment checklist as the model for soliciting and gathering such information over the next year. An expert working group will develop recommendations regarding a longer-term process for a review mechanism, and will present its ideas to the COSP's second session to be held in Indonesia in late 2007. The COSP created two additional experts' working groups on important topics of asset recovery and technical assistance. These working groups will be financed from within existing UNODC resources and extra-budgetary resources. USDEL facilitated agreement on supporting activities, including a donor workshop in 2007 and expert seminars on asset recovery. Other formal COSP decisions included: an appeal for States to expedite compliance with the mandatory criminalization provisions, integral steps to address bribery of international organization officials (co-sponsored by USDEL), the introduction of case study examination of prevention as an activity of the next COSP, and adoption of the provisional agenda for the 2nd session focused on expert sessions on key issues.

¶2. (SBU) The COSP was heavily attended by non-governmental organizations, the private sector, national anti-corruption authorities and parliamentarians. The UN Office on Drugs and Crime (UNODC) held separate side-events for each of these groups in order to facilitate dialogue and generate further support for UNCAC, and in which USDEL also participated. Despite an initially heated and contentious first few days thanks to provocative actions on the part of the European Union, USDEL took a leading role in facilitating consensus on decisions and on issues such as bribery of public international officials. END SUMMARY.

USDEL

¶3. (U) Acting INL DAS Elizabeth Verville served as head of USDEL, which consisted of the following representatives: John Brandolino (INL) Benjamin Longlet (DOJ), Peter Ainsworth (DOJ), Elizabeth Hart (USAID), Howard Solomon (UNVIE), Virginia Prugh (L/LEI), Guinnevere Roberts (IO/T), Christine

Cline (INL/PC) and Jack Doutrich (Embassy Amman).

A Historic Opportunity

¶4. (U) The first session of the Conference of States Parties (COSP) to the UN Convention Against Corruption (UNCAC) convened at the Dead Sea in Jordan from December 10-14, almost one year following the entry into force of UNCAC. Prime Minister Marouf al-Bakhit of Jordan welcomed delegates, and urged them to take advantage of this historic opportunity to promote implementation of the first truly global anticorruption treaty. Close to 100 parties and signatories of UNCAC were represented at this first meeting. Note: The USG became a party to UNCAC on November 29, 2006. End note. Many delegations opened the session by providing an overview of national anti-corruption efforts to implement the treaty. During USDEL's intervention, Acting INL DAS Verville emphasized that anticorruption efforts are a foreign policy priority evidenced by the President's Kleptocracy Initiative, which seeks to deny safe haven to illicit assets and enhance the global capacity to return stolen assets. Verville urged the COSP to identify asset recovery as one of the substantive priorities for initial attention, along with the criminalization of core conduct, mechanisms to facilitate international cooperation, and key preventive measures, such as transparent and effective public procurement and financial management systems and access to public information.

Review Mechanisms

¶5. (U) The first agenda item for the COSP afforded delegations the opportunity to consider ways and means of achieving COSP objectives, most notably to review implementation of UNCAC, as outlined in Article 63 of the

Convention. With regard to an implementation review mechanism, USDEL advocated a step-by-step process that would first and immediately focus on gathering information from parties and signatories so as to identify needs for technical assistance and gaps in implementation. USDEL introduced a self-assessment checklist, which would assist countries in determining whether or not they were in compliance with UNCAC priority provisions, and serve as a basis for gathering information on implementation. The COSP approved use of a self-assessment checklist as a tool to facilitate information gathering, and agreed to use the US draft as a model for such a checklist, to be finalized by the Secretariat in consultation with States Parties. The UNODC Secretariat was requested to finalize the checklist within eight weeks and distribute it to States parties and signatories.

¶6. (SBU) USDEL's staged approach to reviewing implementation was initially opposed strongly by several European Union members, most notably the United Kingdom, and non-EU delegations such as Egypt and Pakistan. The latter advocated a "go slow" approach. In lieu of support for a quick start on review, the European Union preferred to postpone information gathering entirely for at least one year, and instead to establish a permanent standing review body, the function of which would not be considered until a working group could be convened next fall. The USG and many attending civil society members strongly opposed this postponement of meaningful action, and also the creation of a subsidiary body before its terms of reference were discussed and agreed. After informal deliberations, States Parties agreed to initiate immediate information gathering, using a self-assessment checklist model developed by the USG. The COSP also created an interim intergovernmental expert working group to meet during the intersessional period and the second session of the COSP, within existing resources, in order to generate recommendations to the second session on establishing some type of longer-term mechanism or body to review UNCAC implementation that would supplement and not duplicate existing regional mechanisms.

Asset Recovery

17. (U) In accordance with USDEL priorities, delegates unanimously endorsed asset recovery as a priority topic for COSP's attention. Several countries, including Nigeria, France and Netherlands, put forward concrete proposals to create intergovernmental experts' bodies that would provide intersessional attention to this area. Netherlands proposed the creation of a voluntary Asset Recovery Fund to be administered by a 5-person advisory board. This proposal did not generate support. USDEL highlighted the need to promote implementation of UNCAC's unique asset recovery chapter, to focus on strengthening international and respective domestic frameworks for facilitating asset recovery cases. USDEL ensured that the working group on asset recovery was charged, among other things, to work with UNODC and provide opportunities for anti-corruption experts and authorities who work on asset recovery cases to exchange views and identify tools for facilitating international cooperation in this area.

Technical Assistance

18. (U) Similar to the Conference of the Parties for the UN Convention against Transnational Organized Crime, the COSP established a separate working group to assist the COSP in promoting technical assistance. The working group, within existing resources, will review needs for technical assistance by examining the information provided by States Parties and signatories through the U.S.-drafted self-assessment checklist, as well as through other means. The group will also seek to identify technical assistance priorities for both donor and recipient states, and attempt to survey ongoing assistance projects conducted on a bilateral and multilateral basis. UNODC and the working group will also attempt to encourage international donors to fund technical assistance specifically related to implementing UNCAC, and to integrate UNCAC within donor anticorruption assistance strategies. To this end, the COSP requested UNODC to organize an international donor workshop, funded by extra-budgetary resources; Norway indicated that it hopes to fund this workshop along with others.

Other Decisions Taken

19. (U) The COSP adopted nine decisions out of a total of 20 proposals and non-papers submitted to the Secretariat. In addition to decisions mentioned above, delegates approved the following: an appeal for States parties to expedite

compliance with UNCAC's mandatory criminalization provisions; a request for the Secretariat to organize an open-ended dialogue on bribery of public international organization officials; and the introduction of case study examination of prevention at the next COSP. USDEL and others successfully opposed a French proposal to create a new UNODC legal advisory program that was duplicative of an existing UNODC program.

110. (SBU) USDEL, in conjunction with Norway and France, introduced a draft decision that sought to make headway in criminalizing bribery of officials of international organizations. Several countries, most notably Russia and Egypt, did not want to highlight efforts to address bribery of international organization officials and the related impediment caused by the privileges and immunities of such officials, arguing that these are a necessary part of efforts to address bribery of domestic officials. USDEL and many delegations urged adoption of the text, arguing that it would send the wrong signal if the COSP failed to impose the same restrictions on its national officials as international officials. The COSP ultimately agreed to encourage countries to criminalize bribery of international organization officials and to convene an open-ended dialogue on this subject at the COSP's second session.

¶11. (U) Delegates approved the provisional agenda for the second session, and at the urging of USDEL and others, specifically added expert discussion sessions on implementing the prevention and criminalization chapters of UNCAC, as well as asset recovery. The COSP also endorsed Indonesia's invitation to serve as the host for the second session, to be held either in Jakarta or Bali in late 2007.

UNODC-Hosted Side Events

¶12. (U) Parallel to the COSP, UNODC held a forum for civil society and the private sector. Forty-five non-governmental groups attended as observers, led in particular by Transparency International and its national chapters, as well as dozens of intergovernmental organizations. Other major groups included Global Witness, Oxfam, Christian Aid, and a significant number of local anticorruption groups from the developed and developing world. Private sector groups represented included the International Chamber of Commerce, the United Nations Global Compact, and Statoil (Norway). The side meeting included traditional workshop-style panels on NGO and private sector anticorruption initiatives, as well as sessions to finalize a statement of the Coalition of Civil Society Friends of the UNCAC. The coalition statement highlighted civil society groups' strong support for a monitoring mechanism that would include a survey of implementation by all states parties, pilot monitoring activities, and inclusion of civil society in the design and implementation of any survey and/or pilot monitoring mechanism. Other key issues for civil society included access to information, protecting whistleblowers, and commitment by donors of earmarked funds for technical assistance.

¶13. (U) During the Forum for Anti-Corruption Authorities sponsored by the newly-formed International Association of Anti-Corruption Authorities, participants at this side event spoke mainly about the composition and achievements of their respective bodies, some devoted to prevention, some to law enforcement, and some focused on both interests.

¶14. (U) Discussion in the Forum for Parliamentarians, sponsored by the Global Organization of Parliamentarians against Corruption, centered on two topics: campaign finance reform, and the ability of legislative bodies to police themselves. European and Arab state representatives advocated for States parties to impose severe caps on campaign contributions and political party spending. USDEL and others emphasized the Convention's call for transparency in election financing, and the need for States parties to retain the ability to balance for themselves freedoms of expression with the need for election regulation. Discussion on the second topic centered on the practicality and legality of measures that give legislative bodies the ability to impose sanctions on their own members, with many in the audience expressing skepticism that a system of peer review could ever be effective.

¶15. (U) UNODC hosted a meeting of bilateral and multilateral development agencies, presenting several proposals for coordinating and dedicating assistance to UNCAC

implementation through UNODC, including the establishment of a "Group of Sherpas for the clean management of development aid." USAID, the World Bank, the UK Department for International Development and several other bilateral donors produced assurances that anticorruption is a central part of their poverty reduction and development agendas. Ongoing efforts through the OECD Development Assistance Committee and other coordinating mechanisms were also cited, all resulting in the conclusion that a formal group to pursue this issue was not required. A second proposal that the UNODC-convened International Group on Anticorruption Coordination (IGAC) should evolve from a forum for exchange of information and best practices into a network for partnership was also put

forward, but given the lack of information on what this transformation would consist of, the attendees did not comment.

¶16. (SBU) COMMENT: After almost a year of consultations with various informal multilateral fora, including the "Friends of the UNCAC" group, expectations were that the first COSP would bring together countries both from the developing and developed world with common commitments to help bring the Convention to life. Initially, however, the EU presented a draft decision that included an endorsement of a subsidiary body that would monitor compliance of the UNCAC, which was a point of contention during negotiations and during the year of "Friends" consultations. Thanks to this proposal, a North-South divide emerged, as well as significant differences between the EU and Japan, Australia, and the United States on how to achieve successful implementation. Only after several days of sometimes heated deliberations did consensus on a number of issues begin to emerge. The United States played an important role in brokering agreements and bridging divides to achieve consensus on a staged approach to review implementation that included a working group to consider terms of reference before creating a subsidiary body, and an immediate start to gathering information on the implementation. This improved atmosphere also facilitated cooperation on key decisions, including on technical assistance and asset recovery. USDEL intends to begin a process early in the new year to chart next steps in moving our agenda forward. END COMMENT.

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